IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 18043 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HAIDER ALIAS ALLU ALIAS HAIDERLANGDO SAMSUDDIN SAIYED
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 18043 of 2003
MS KRISHNA U MISHRA for Petitioner No. 1
MR AMRISH K PANDYA for Petitioner No. 1
MR LR PUJARI Ld. AGP for Respondents

CORAM : HON'BLE MR.JUSTICE N.G.NANDI

Date of decision: 12/02/2004

ORAL JUDGEMENT

1. Heard Mr.Amrish Pandya for Ms.K.U.Misha, learned advocate for the petitioner and Mr.L.R.Pujari, learned AGP for the respondents.

2. By this petition under Article 226 of the Constitution of India, the petitioner has been challenging the order of detention dated 17.5.2003 passed by respondent no.2 under the provisions of Section 3(1) of the Gujarat Prevention of Anti-Social Activities Act,1985 (hereinafter referred to as "the Act").

3. The say of the petitioner is that the grounds pressed into service against the petitioner at Annexure-B suggest that the Detaining Authority took into consideration the registration of two criminal complaints against the petitioner under Sections 457, 380 and 114 of the Indian Penal Code, alleging the theft committed by the petitioner and his associates. The Detaining Authority has also referred to the statements of the witnesses with regard to the incidents which allegedly occurred on 28.11.2002 and 11.1.2003. It is suggested that the statements of the witnesses in respect of both the incidents refer to the associates of the present petitioner. The present petitioner along with his associates Mohmad Yunus Sahikh and others is alleged to have indulged in the illegal acts.

4. It is submitted by Mr.Pandya that a co-detenu Mohammad Yunus alias Kohpdi Abdul Karim Shaikh successfully challenged the detention order dated 17.5.2003 by filing Special Civil Application No.13511 of 2003 and the co-detenu has been set at liberty by this Court quashing and setting the detention order passed against him. Copy of the order passed in Special Civil Application No.13511 of 2003 is placed on record and it is contended that for the reason of parity, the present petitioner be also set at liberty quashing and setting aside the order of detention passed against him.

5. The petitioner of Special Civil Application No.13511 of 2003 has been referred to in the statements of the witnesses recorded in connection with the incident which allegedly occurred on 28.1.2002 and 11.1.2003. Page-22 the list of documents furnished to the petitioner also refers to the statement dated 26.2.2003 and 27.2.2003 of Mohammad Yunus alias Kohpdi Abdul Karim Shaikh at Serial No.12. It is suggested that the detention order against the co-detenu - Mohammad Yunus

alias Kohpdi Abdul Karim Shaikh was also passed on the same day i.e. on 17.5.2003.

6. In view of the fact that the co-detenu - Mohammad Yunus alias Kohpdi Abdul Karim Shaikh has been set at liberty and the detention order passed against him having been quashed and set aside in Special Civil Application No.13511 of 2003 by this Court, the detention order passed against the present petition is also liable to be quashed and set aside and the petitioner set at liberty forthwith for the reason of parity.

7. In the result, the petition is granted and accordingly allowed. The impugned order of detention dated 17.5.2003 (Annexure-A) passed by respondent no.2 against the petitioner -detenu - Haider alias Allu Haider Langdo Samsuddin Saiyed is hereby quashed and set aside. The petitioner - detenu is ordered to be set at liberty forthwith, if not required in any other case. Rule is made absolute accordingly. Direct service is permitted.

(N.G.Nandi,J.)

(vipul)